

## **IC 8-14.5-6**

### **Chapter 6. Issuance of Bonds and Notes**

#### **IC 8-14.5-6-1**

##### **Bond and note authorization**

Sec. 1. Except as provided in sections 2 and 5 of this chapter, the authority may, by resolution, issue and sell bonds or notes of the authority for the purpose of providing funds to carry out the provisions of this article with respect to the construction of a project or projects or the refunding of any bonds or notes, together with any reasonable costs associated with a refunding. However, the authority may not issue any bonds or notes for the construction of a project after July 1, 2007.

*As added by P.L.68-1988, SEC.12. Amended by P.L.260-1997(ss), SEC.54.*

#### **IC 8-14.5-6-2**

##### **Approval; identification of funding objectives**

Sec. 2. (a) Before the issuance of bonds or notes, the authority must receive the approval of:

- (1) the commissioner of the Indiana department of transportation; and
- (2) the budget agency.

(b) Before the issuance of bonds or notes, the department shall identify:

- (1) the project or projects to be financed from the proceeds of the bonds or notes; or
- (2) the project or projects proposed to be financed from the proceeds of the bonds or notes, the projected cost and useful life of which will form a basis upon which the authority may reasonably determine that the limitations in sections 3 and 5(b) of this chapter will be complied with if the proposed project or projects are financed from the bonds or notes.

*As added by P.L.68-1988, SEC.12. Amended by P.L.112-1989, SEC.4; P.L.260-1997(ss), SEC.55.*

#### **IC 8-14.5-6-3**

##### **Weighted average useful life of project; term of bonds and interest**

Sec. 3. (a) The construction of a project may not be financed under this article if at the time the lease with respect to the project is initially entered into the weighted average useful life of the project is less than five (5) years.

(b) For purposes of this section and section 5 of this chapter, a certificate of the department as to the weighted average useful life of the project is conclusive with respect to the matters contained in the certificate.

(c) If any bonds or notes bear interest at a variable or adjustable rate, lease rentals under any lease or leases attributable to debt service shall be fixed over the term of the lease or leases based on the fair and reasonable value of the project or projects leased.

*As added by P.L.68-1988, SEC.12.*

#### **IC 8-14.5-6-4**

##### **Notice of bond issue; publication; time for contesting validity; subsequent leases**

Sec. 4. (a) Before issuing a series of bonds or notes, the authority shall publish a notice of its determination to issue the bonds or notes. The notice shall be published one (1) time in two (2) newspapers published and of general circulation in the city of Indianapolis.

(b) No action to contest the validity of:

- (1) any contract entered into by the department and the authority before the bonds or notes are issued;
- (2) any lease entered into by the department and the authority before the bonds or notes are issued to secure a series of bonds or notes; or
- (3) a series of bonds or notes issued by the authority;

may be brought after the fifteenth day following publication of the notice required by subsection (a).

(c) If a lease or contract is entered into under this chapter after bonds or notes relating to the lease or contract are issued, the authority may publish notice of execution of the lease or contract as set forth in subsection (a). No action to contest the validity of such a lease or contract may be brought after the fifteenth day following publication of the notice.

(d) If an action challenging a lease, contract, bonds, or notes is not brought within the time prescribed by this section, the lease, contract, bonds, or notes shall be conclusively presumed to be fully authorized and valid under the laws of the state and any person or entity is estopped from further questioning the authorization, validity, execution, delivery, or issuance of the contract, lease, bonds or notes.

*As added by P.L.68-1988, SEC.12.*

#### **IC 8-14.5-6-5**

##### **Bond and note provisions; weighted average life**

Sec. 5. (a) The bonds or notes must indicate on their face:

- (1) the maturity date or dates, as determined under subsection (b);
- (2) the interest rate or rates (whether fixed, variable, or a combination of fixed or variable) or the manner in which the interest rate or rates will be determined if variable or adjustable rates are used;
- (3) registration privileges and place of payment, including provisions for book entry obligations as set forth in IC 5-1-15;
- (4) the conditions and terms under which the bonds or notes may be redeemed or prepaid before maturity; and
- (5) their source of payment as set forth in section 10 of this chapter.

(b) The weighted average life of the bonds or notes may not exceed the sum of:

- (1) the weighted average useful life of the project or projects to be financed from the proceeds of the bonds or notes; plus
- (2) the period of construction of the project or projects.

*As added by P.L.68-1988, SEC.12.*

#### **IC 8-14.5-6-6**

##### **Manual or facsimile signatures; seal**

Sec. 6. The bonds or notes:

- (1) shall be executed by the manual or facsimile signature of the chairman or vice chairman of the authority;
- (2) shall be attested by the manual or facsimile signature of the secretary-treasurer or assistant secretary-treasurer of the authority;
- (3) shall be imprinted or impressed with the seal of the authority by any means;
- (4) may be authenticated by a trustee, registrar, or paying agent; and
- (5) constitute valid and binding obligations of the authority, even if the chairman, vice chairman, secretary-treasurer, or assistant secretary-treasurer whose manual or facsimile signature appears on the bonds or notes no longer holds that office.

*As added by P.L.68-1988, SEC.12.*

#### **IC 8-14.5-6-7**

##### **Negotiable instrument nature of bonds or notes**

Sec. 7. The bonds or notes, when issued, have all the qualities of negotiable instruments, subject to provisions for registration, under IC 26 and are incontestable in the hands of a bona fide purchaser or owner of the bonds or notes for value.

*As added by P.L.68-1988, SEC.12.*

#### **IC 8-14.5-6-8**

##### **Public or negotiated sale**

Sec. 8. The bonds or notes may be sold by the authority at a public or a negotiated sale at a time or times determined by the authority and at a premium or discount as determined by the authority. In determining the amount of bonds or notes to be issued and sold, the authority may include the costs of construction or of refunding bonds or notes, including reasonable debt service reserves, and all other expenses necessary or incident to the construction of the project, a refunding, or the issuance of the bonds or notes.

*As added by P.L.68-1988, SEC.12.*

#### **IC 8-14.5-6-9**

##### **Appropriated purpose of proceeds; maturities**

Sec. 9. The proceeds of the bonds or notes are appropriated for the purpose for which the bonds or notes may be issued and the proceeds shall be deposited and disbursed in accordance with any provisions and restrictions that the authority may provide in the resolution or trust agreement authorizing the issuance of the bonds or notes. The maturities of the bonds or notes, the rights of the owners, and the rights, duties, and obligations of the authority are governed in all respects by this article and the resolution or trust agreement.

*As added by P.L.68-1988, SEC.12.*

### **IC 8-14.5-6-10**

#### **Bonds or notes of authority not state indebtedness; funds from which payable**

Sec. 10. The bonds or notes:

- (1) constitute the corporate obligations of the authority;
- (2) do not constitute an indebtedness of the state within the meaning or application of any constitutional provision or limitation; and
- (3) are payable solely as to both principal and interest from:
  - (A) the revenues from a lease to the department, if any;
  - (B) proceeds of bonds or notes, if any; or
  - (C) investment earnings on proceeds of bonds or notes.

*As added by P.L.68-1988, SEC.12.*

### **IC 8-14.5-6-11**

#### **Enforcement of article and undertaking**

Sec. 11. The provisions of this article and the covenants and undertakings of the authority as expressed in any proceedings preliminary to or in connection with the issuance of the bonds or notes may be enforced, subject to the provisions of any resolution or trust agreement, by a bond or note owner by action for injunction or mandamus against the authority or any officer, agent, or employee of the authority. However, no action for monetary judgment may be brought against the state for any violations of this article or for payment of the bonds or notes of the authority.

*As added by P.L.68-1988, SEC.12.*

### **IC 8-14.5-6-12**

#### **Tax exemption**

Sec. 12. All bonds or notes issued under this article are issued by a body corporate and politic of this state, but not a state agency, and for an essential public and governmental purpose. The bonds and notes, the interest on the bonds and notes, the proceeds received by an owner from the sale of the bonds or notes to the extent of the owner's cost of acquisition, proceeds received upon redemption for maturity, proceeds received at maturity, and the receipt of the interest and proceeds are exempt from taxation for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

*As added by P.L.68-1988, SEC.12. Amended by P.L.21-1990, SEC.40; P.L.254-1997(ss), SEC.14.*

### **IC 8-14.5-6-13**

#### **Bonds and notes as legal investment**

Sec. 13. Notwithstanding any other law, all financial institutions, investment companies, insurance companies, insurance associations, executors, administrators, guardians, trustees, and other fiduciaries may legally invest sinking funds, money, or other funds belonging to them or within their control in bonds or notes issued under this chapter.

*As added by P.L.68-1988, SEC.12.*

#### **IC 8-14.5-6-14**

##### **Security registration exemption**

Sec. 14. Bonds or notes issued under this chapter are exempt from the registration requirements of IC 23-2-1 and any other state securities registration statutes.

*As added by P.L.68-1988, SEC.12.*

#### **IC 8-14.5-6-15**

##### **Pledges**

Sec. 15. A pledge of lease rentals, proceeds of bonds or notes, investment earnings on those proceeds, or other money pledged by the authority is binding from the time the pledge is made. Lease rentals, proceeds of bonds or notes, investment earnings on those proceeds, or other money pledged by the authority and thereafter received by the authority or its trustee or fiduciary is immediately subject to the lien of the pledge without any further act, and the lien of the pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, regardless of whether the parties have notice of the lien. A resolution, trust agreement, or any other instrument by which a pledge is created is required to be filed or recorded only in the records of the authority.

*As added by P.L.68-1988, SEC.12.*

#### **IC 8-14.5-6-16**

##### **Insurance or guaranty of payment**

Sec. 16. The authority may obtain from a department or agency of the state or of the United States, or from a nongovernmental insurer, available insurance or guaranty for the payment or repayment of interest or principal, or both, or any part of interest or principal, or any debt service reserve funds, on bonds or notes issued by the authority, or on securities purchased or held by the authority.

*As added by P.L.68-1988, SEC.12.*

#### **IC 8-14.5-6-17**

##### **Credit enhancement or liquidity support agreements**

Sec. 17. The authority may enter into agreements with an entity to provide credit enhancement or liquidity support for any bonds or notes issued by the authority, or for any debt service reserves securing any bonds or notes, with terms that are reasonable and proper, in the discretion of the authority, and not in violation of law. The authority may execute and deliver notes to evidence its obligation to make payments under such an agreement, but these notes must conform to the provisions of this article in all respects.

*As added by P.L.68-1988, SEC.12.*

#### **IC 8-14.5-6-18**

##### **Service agreements with financial institutions**

Sec. 18. The authority may enter into agreements or contracts with any financial institution as may be necessary, desirable, or convenient in the opinion of the authority for rendering services in connection

with:

- (1) the care, custody, or safekeeping of securities or other investments held or owned by the authority;
- (2) the payment or collection of amounts payable as to principal or interest; and
- (3) the delivery to the authority of securities or other investments purchased or sold by it.

The authority may also, in connection with any of the services rendered by a financial institution as to custody and safekeeping of its securities or investments, require security in the form of collateral bonds, surety agreements, or security agreements as, in the opinion of the authority, is necessary or desirable.

*As added by P.L.68-1988, SEC.12.*

### **IC 8-14.5-6-19**

#### **Trust agreements or resolutions**

Sec. 19. (a) In the discretion of the authority, any bonds and notes issued under this chapter may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in Indiana. Such a trust agreement may also provide for a cotrustee, which may be any trust company or bank in Indiana or another state.

(b) The trust agreement or the resolution providing for the issuance of the bonds or notes may contain provisions for protecting and enforcing the rights and remedies of the owners of bonds or notes as may be reasonable and proper, in the discretion of the authority, and not in violation of law.

(c) The trust agreement or resolution may set forth the rights and remedies of the owners of any bonds or notes of the trustee and may restrict the individual right of action by the owners.

(d) Any trust agreement or resolution may contain other provisions that the authority considers reasonable and proper for the security of the owners of bonds or notes.

(e) All expenses incurred in carrying out the provisions of the trust agreement or resolution may be paid from money pledged or assigned to the payment of the principal of and interest on bonds or notes or from any other funds available to the authority.

*As added by P.L.68-1988, SEC.12.*

### **IC 8-14.5-6-20**

#### **Authority purchase of its own bonds or notes**

Sec. 20. The authority may purchase bonds or notes of the authority out of its funds or money available for the purchase of its own bonds or notes. The authority may hold, cancel, or resell the bonds or notes subject to, and in accordance with, agreements with owners of its bonds or notes. Unless cancelled, bonds or notes so held shall be considered to be held for resale or transfer and the obligation evidenced by the bonds or notes shall not be considered to be extinguished.

*As added by P.L.68-1988, SEC.12.*

### **IC 8-14.5-6-21**

**Investment of authority funds**

Sec. 21. Funds or money held by the authority under any trust agreement or resolution may be invested pending disbursement as provided in the trust agreement or the resolution. Such an investment is not restricted by or subject to the provisions of any other law.

*As added by P.L.68-1988, SEC.12.*